APPENDIX A

Statutes and Regulations Involved

1. The Federal Power Act, Act of June 10, 1920, 41 Stat. 1063, as amended, 16 U.S.C. 791a–825r, states in pertinent part:

> Section 4 [16 U.S.C. 797]—The Commission is hereby authorized and empowered—
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> (f) To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 9 hereof: *Provided, however,* That upon the filing of any application for a preliminary permit by any person, association, or corporation the Commission, before granting such application, shall at once give notice of such application in writing to any State or municipality likely to be interested in or affected by such application; and shall also publish notice of such application once each week for four weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated.
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> Section 5 [16 U.S.C. 798]—Each preliminary permit issued under this Part shall be for the sole purpose of maintaining priority of application for a license under the terms of this Act for such period or periods, not exceeding a total of three years, as in the discretion of the Commission may be necessary for making examinations and surveys, for preparing maps,

plans, specifications, and estimates, and for making financial arrangements. Each such permit shall set forth the conditions under which priority shall be maintained. Such permits shall not be transferable, and may be canceled by order of the Commission upon failure of permittees to comply with the conditions thereof or for other good cause shown after notice and opportunity for hearing.

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Section 7 [16 U.S.C. 800]—(a) In issuing preliminary permits hereunder or licenses where no preliminary permit has been issued and in issuing licenses to new licensees under section 15 hereof the Commission shall give preference to applications therefor by States and municipalities, provided the plans for the same are deemed by the Commission equally well adapted, or shall within a reasonable time to be fixed by the Commission be made equally well adapted, to conserve and utilize in the public interest the water resources of the region; and as between other applicants, the Commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans.

(b) Whenever, in the judgment of the Commission, the development of any water resources for public purposes should be undertaken by the United States itself, the Commission shall not approve any application for any project affecting such development, but shall cause to be made such examinations, surveys, reports, plans, and estimates of the cost of the proposed development as it may find necessary, and shall submit its findings to Congress with

such recommendations as it may find appropriate concerning such development.

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Section 9 [16 U.S.C. 802]—That each applicant for a license hereunder shall submit to the commission—

(a) Such maps, plans, specifications, and estimates of cost as may be required for a full understanding of the proposed project. Such maps, plans, and specifications when approved by the commission shall be made a part of the license; and thereafter no change shall be made in said maps, plans, or specifications until such changes shall have been approved and made a part of such license by the commission.

(b) Satisfactory evidence that the applicant has complied with the requirements of the laws of the State or States within which the proposed project is to be located with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purposes of a license under this Act.

(c) Such additional information as the commission may require.

Section 10 [16 U.S.C. 803]—All licenses issued under this Part shall be on the following conditions:

(a) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, and for

other beneficial public uses, including recreational purposes; and if necessary in order to secure such plan the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

* * * * *

(c) That the licensee shall maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power, shall make all necessary renewals and replacements, shall establish and maintain adequate depreciation reserves for such purposes, shall so maintain and operate said works as not to impair navigation, and shall conform to such rules and regulations as the Commission may from time to time prescribe for the protection of life, health, and property. Each licensee hereunder shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto, constructed under the license, and in no event shall the United States be liable therefor.

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(g) Such other conditions not inconsistent with the provisions of this Act as the Commission may require.

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Section 24 [16 U.S.C. 818]—Any lands of the United States included in any proposed project under the provisions of this Part shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress. Notice that such application has been

made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. * * *

* * * * *

Section 26 [16 U.S.C. 820]. That the Attorney General may, on request of the Commission or of the Secretary of the Army, institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for violation of its terms any permit or license issued hereunder, or for the purpose of remedying or correcting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this Act or of any lawful regulation or order promulgated hereunder. * * *

2. Section 2 of the Wildlife Resources Act of 1946, 60 Stat. 1080, as amended, 16 U.S.C. 662(a), reads as follows:

Except as hereafter stated in subsection (h) of this section, whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency first shall consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the impoundment, diversion, or other control facility is to be constructed, with a view to the conservation of wildlife resources by

preventing loss of and damage to such resources as well as providing for the development and improvement thereof in connection with such water-resource development.

3. Section 1.37, 18 C.F.R. 1.37, of the Federal Power Commission's Rules of Practice and Procedure states as follows:

* * * * *

(b) *Notice*—(1) *By Federal Power Commission.* (i) Whenever there shall be instituted before the Federal Power Commission any proceeding under either the Federal Power Act or the Natural Gas Act, the State commission or commissions of the State or States affected thereby will be given notice thereof immediately by the Federal Power Commission. As deemed necessary for an understanding of the subject matter, each such notice will be supplemented by copies of applications, complaints, petitions, or orders instituting proceedings.

* * * * *

4. The Regulations under the Federal Power Act, 18 C.F.R. Chapter I, Subchapter B provide in pertinent part:

* * * * *

APPLICATION FOR LICENSE; GENERAL PROVISIONS

Section 4.30 Who may file.

An application for license may be filed by any citizen, association of citizens, corporation, State, or municipality desirous of obtaining a license pursuant to the act: *Provided, however,* That if a preliminary permit has been issued, no action on applications by others than the permittee covering in whole or in part the same reach of stream or streams shall be taken that might infringe on the rights of the permittee under sections 5 and 7 of the Federal Power Act.

Section 4.31 Acceptance for filing or rejection of applications.

When an application which conforms to the requirements of § 1.15 of this chapter is received, it will be given a filing number, notice of receipt thereof and filing number given thereto will be furnished applicant, and notices will be given in accordance with the requirements of section 4 of the act (49 Stat. 839; 16 U.S.C. 797), § 1.37 of this chapter, and the Wildlife Resources Act of 1946 (60 Stat. 1080). Notice will also be given to the appropriate office of the Department of the Interior as to the public lands affected, if any, so that withdrawals from entry may be recorded, unless such action has been taken in connection with a preliminary permit. An application may be acceptable for filing for processing prior to final Commission action thereon provided it contains the information required under § 4.40 (a), (b), (c), (d), (e), (f), and (h), together with Exhibits A, B, E, G, J, K, L, M, O, R and S, [1] required under § 4.41. Such application may include as Exhibit K, a project area map with such information with respect to lands affected as is readily available without a detailed survey, and as Exhibit L, the tentative design of the project works proposed. An application which fails to meet these requirements will be rejected by the Secretary as provided by § 1.14 of this chapter. However, the applicant may be required to furnish the balance of the information required under §§ 4.40 and 4.41 at such time as the Secretary directs and failure to furnish same will constitute grounds for rejection of the application by the Secretary as provided by § 1.14 of this chapter. The Commission may require as a condition of license that the licensee furnish additonal or revised exhibits by a specified time

[1] The regulations did not call for exhibits R or S until after the filing of the license applications involved here.

and failure to furnish such information within the time specified or an extension thereof granted by the Commission shall constitute a violation of the license and cause for action under section 26 of the Federal Power Act. In case any information, documents or exhibits required to be filed with an application are already on file with the Commission, in current form and substance, the same may be incorporated in the application by reference.

* * * * *

Section 4.41 Required exhibits.

There shall be filed as part of the application for license the following exhibits: *Provided,* That any exhibit not incorporated as a part of the application shall be certified in conformity with § 131.4 of this chapter:

* * * * *

Exhibit L. General design drawings showing plans, elevations, and sections of all principal structures and appurtenant works or other features of the project. These drawings shall be in sufficient detail and shall be accompanied by sufficient information relating to controlling factors (such as character of foundations and explorations thereof, materials and types of construction, important elevations, gradation of filter and riprap material, design and ultimate strengths for concrete and steel, stress and/or stability analysis for important structures, water levels, spillway rating curves, etc.) to enable the Commission to have a full understanding of the project and to check safety, adequacy, and desirability in the development of the resources involved.

Scales are not specified, but it is desired that they be no larger than necessary to show clearly the information required. Drawings should be simple. Details are desired only as necessary to show features of importance in determining safety, adequacy, and suitability of design.

Working drawings are not desired as part of application, but should be prepared for purposes of construction and retained as a record of the work when completed. In this exhibit shall be included—

(1) Dams and appurtenances, such as spillways, fishways, outlet works, etc.

(2) Navigation structures and approaches thereto, including locks, lock gates, operating machinery, etc.

(3) Conduits including forebays, intake works, surge tanks, and other pressure relief devices, etc.

(4) Powerhouses and substations (see specifications as in § 4.42).

APPLICATION FOR PRELIMINARY PERMIT AND AMENDMENTS THEREOF

* * * * *

Section 4.82 Contents of application. Each application for preliminary permit shall be submitted as prescribed in § 131.10 of this chapter and shall set forth in appropriate detail the following information in the order indicated. Unless otherwise specified, the original and ten conformed copies of the application and all accompanying documents shall be submitted, with one additional conformed copy for each interested State Commission.

* * * * *

(k) (Required exhibits.) There shall be filed as part of the application the following exhibits: *Provided,* That any exhibit not incorporated as a part of the application shall be certified in conformity with § 131.4 of this chapter.

* * * * *

Exhibit H. A general map showing the nature of the proposed project, its principal features and their location, and the location of the

project as a whole with reference to some well-known town or stream. On this map shall be placed a line indicating the approximate project boundary of the area to be occupied by the principal project works, such as dams, reservoirs, forebays, waterways, and powerhouses, but excluding transmission lines, and where necessary in order to determine the location of such structures on the ground, there shall be shown on the map their relative positions with respect to permanent monuments or objects that can be readily recognized from descriptions thereof noted on the map. (See specifications for drawings, § 4.42.)

Exhibit I. This exhibit shall be submitted only if public lands or reservations are affected and shall be a map of the proposed project showing principal project works in a manner similar to the preceding exhibit H, except that such map shall show and shall be on a scale to present effectively a tentative project boundary which shall be the line enclosing all quarter-quarter sections, lots, and other smallest legal subdivisions of public-land survey which may be occupied or used in whole or in part by the project. It shall also show the status of lands, indicating separately lands patented, lands entered or otherwise embraced in any unperfected claim under the public-land laws, unreserved public lands, and lands of each and every reservation affected. (See specifications for drawings, § 4.42.) If desired a single map may be submitted for exhibits H and I, provided it shows all the information required for both.)

* * * * *

Section 4.84 Amendments.

Applications for amendments of preliminary permits shall follow the form prescribed for original applications, as far as applicable. If

an application for an amendment embraces sites or areas not covered by the original permit, notice of such application will be given in the manner required for the original application. Unless otherwise specified, an original and ten conformed copies of the application and all accompanying documents shall be submitted, with one additional copy for each interested State Commission.

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APPENDIX B

The following terms and conditions, which were made part of the Commission's license order (II R. 609–683), were inadvertently not printed in the record.

Form L–6 (Revised November 1, 1963)

TERMS AND CONDITIONS OF LICENSE FOR UNCONSTRUCTED MAJOR PROJECT AFFECTING NAVIGABLE WATERS AND LANDS OF THE UNITED STATES

Article 1. The entire project, as described in the order of the Commission, shall be subject to all the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, that if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval amended, supplemental, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. Said project works shall be constructed in substantial conformity with the approved exhibits

referred to in Article 2 herein or as charged in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works under the license without the prior approval of the Commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in the project works or divergence from such approved exhibits may be made if such changes will not result in decrease in efficiency, in material increase in cost, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may from time to time prescribe for the protection of life, health, or property.

Article 4. The construction, operation, and maintenance of the project and any work incident to additions or alterations, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall furnish to said representative such information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and

shall notify him of the date upon which work will begin, and as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow him and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties.

Article 5. Insofar as any material is dredged or excavated in the prosecution of any work authorized under the license, or in the maintenance of the project, such material shall be removed and deposited so it will not interfere with navigation, and will be to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 6. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of water affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes; and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as

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the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

[Articles 7, 8, and 9 were not incorporated into the license.]

Article 10. The Licensee shall for the protection of navigation, construct, maintain and operate at its own expense such lights and other signals on fixed structures in or over navigable waters of the United States as may be directed by the Secretary of the Department in which the Coast Guard is operating.

Artice 11. The actual legitimate original cost of the original project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Act and the Commission's rules and regulations thereunder.

Article 12. After the first twenty (20) years of operation of the project under the license, six (6) percent per annum shall be the specified rate of return on the net investment in the project for determining surplus earnings of the project for the establishment and maintenance of amortization reserves, pursuant to Section 10(d) of the Act; one-half of the project surplus earnings, if any, accumulated after the first twenty years of operation under the license, in excess of six (6) percent per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year, provided that, if and to the extent that there is a deficiency of project earnings below six (6) percent per annum for any fiscal year or years after the first twenty years of operation under the license, the amount of such deficiency shall be deducted from the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining

surplus earnings, if any, thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained therein until further order of the Commission.

Article 13. The Licensee shall install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing.

Article 14. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order. [This article was modified by the Commission on rehearing, see II R. 800.]

[Article 15 was not incorporated into the license.]

Article 16. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of Licensee's lands and interest in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be prescribed by the Commission, reasonably consistent with the primary purpose of the project, in order to permit the maintenance and operation of

the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17.. The Licensee shall construct, maintain and operate or shall arrange for the construction, maintenance and operation of such recreational facilities including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities and utilities, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal and State agencies, after notice and opportunity for hearing and upon findings based upon substantial evidence that such facilities are necessary and desirable, and reasonably consistent with the primary purpose of the project.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and recreational purposes, including fish and hunting, and shall allow to a reasonable extent for such purposes the construction of access roads, wharves, landings, and other facilities on its lands the occupancy of which may in appropriate circumstances be subject to payment of rent to the Licensee in a reasonable amount: Provided, that the Licensee may reserve from public access, such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property and Pro-

vided further, that the Licensee's consent to the construction of access roads, wharves, landings, and other facilities shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain such facilities. These facilities are in addition to the facilities that the Licensee may construct and maintain as required by the license.

Article 19. The Licensee shall be responsible for and shall minimize soil erosion and siltation on lands adjacent to the stream resulting from construction and operation of the project. The Commission upon request, or upon its own motion, may order the Licensee to construct and maintain such preventive works to accomplish this purpose and to revegetate exposed soil surface as the Commission may find to be necessary after notice and opportunity for hearing.

Article 20. No lease of the project or any part thereof whereby the lessee is granted the occupancy, possession, or use of the project, or any part thereof, shall be made without prior written approval of the Commission; and the Commission may, if in its judgment the situation warrants, require that all the conditions of the license, of the Act, and of the rules and regulations of the Commission shall be applicable to such property so leased to the same extent as if the lessee were the Licensee: Provided, that the provisions of this article shall not apply to leases of land or buildings or other property while not required to achieve the purposes of the license.

Article 21. Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised maps, plans, specifications, and statements insofar as necessary to show any divergence from or variations in the project area and project boundary

as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the maps, plans, specifications, and statements approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the Licensee necessitated or justified variations in or divergence from the approved maps, plans, specifications, and statements. Such revised maps, plans, specifications, and statement shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

Article 22. In the construction and maintenance of the project, the location and standards of roads and trails, and other land uses, including the location and condition of quarries, borrow pits, spoil disposal areas, and sanitary facilities, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

Article 23. In the construction and maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines, and telegraph, telephone, and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling and obstructing traffic and endangering life on highways, streets, or railroads. None of the provisions of this article is intended to relieve the Licensee from any responsibility or requirement which may be imposed by the other lawful authority for avoiding or eliminating inductive interference.

Article 24. The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, are used by such agency of the United States in administering the lands under its jurisdiction.

Article 25. The Licensee shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission line; shall cut and remove all dead or leaning trees which might fall in contact with the transmission line; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

Article 26. Timber on lands of the United States cut, used, or destroyed in the construction and maintenance of the project works or in the clearing of said lands shall be paid for in accordance with the requirements of and at the current stumpage rates applicable to the sale of similar timber by the agency of the United States having jurisdiction over said lands; and all slash and debris resulting from the cut-

ting or destruction of such timber shall be disposed of as the officer of such agency may direct.

Article 27. The Licensee shall do everything reasonably within its power and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon request of officers of the agency of the United States concerned, to prevent, make advanced preparations for suppression, and suppress fires on lands occupied under the license.

Article 28. The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream, conduit or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or to the use by said parties of water for sanitary and domestic purposes from any stream or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license.

Article 29. The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 30. The Licensee shall allow any agency of the United States, without charge, to construct or

permit to be constructed on, through, and across the project lands, conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other means of transportation and communications not inconsistent with the enjoyment of said lands by the Licensee for the purposes stated in the license. This article shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the license.

Article 31. There is reserved to the appropriate department or agency of the United States, or of the State or county involved, the right to take over, maintain, and supervise the use of any project road as a public road after construction of the project works is completed.

Article 32. The Licensee, its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties necessary or useful to the project and to the development, transmission, and distribution of power therefrom will be voluntarily sold, transferred, abandoned, or otherwise disposed of without the approval of the Commission: Provided, that a mortgage or trust deed or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article. In the event the project is taken over by the United States upon the termination of the license, as provided in Section 14 of the Act, or is transferred to a new licensee under the provisions of Section 15 of the Act, the Licensee, its successors and assigns will

be responsible for and will make good any defect of title to or of right of user in any of such project property which is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and will pay and discharge, or will assume responsibility for payment and discharge, of all liens or incumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, that the provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear, or to require the Licensee, for the purpose of transferring the project to the United States or to a new Licensee, to acquire any different title to or right of user in any of such project property than was necessary to acquire for its own purposes as Licensee.

Article 33. For the purpose of determining the stage and flow of the stream or streams from which water is diverted for the operation of the project works, the amount of water held in and withdrawn from storage, and the effective head on the turbines, the Licensee shall install and thereafter maintain such gages and stream-gaging stations as the Commission may deem necessary and best adapted to the requirements; and shall provide for the required readings of such gages and for the adequate rating of such stations. The Licensee shall also install and maintain standard meters adequate for the determination of the amount of electric energy generated by said project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory

to the Commission and may be altered from time to time if necessary to secure adequate determinations, but such alteration shall not be made except with the approval of the Commission or upon the specific direction of the Commission. The installation of gages, the ratings of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of said project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient record of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 34. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without replacement, or shall abandon or discontinue good faith operation of the project for a period of three years, or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address to the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license, and not less than 90 days after public notice may in its discretion terminate the license.

Article 35. Upon abandonment of the project the Licensee shall remove all buildings, equipment and power lines from lands of the United States and restore said lands to a condition satisfactory to agency having jurisdiction over the lands and shall

fulfill such other obligations under the license as the Commission may prescribe.

Article 36. The right of the Licensee and of its transferees and successors to use or occupy navigable waters or lands of the United States under the license for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless a new license is issued pursuant to the then existing laws and regulations.

Article 37. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

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